



File Code: 1570

Date: December 16, 2011

Jonathan Ratner  
Director - Wyoming Office  
Western Watersheds Project  
P.O. Box 1160  
Pinedale, WY 82941

Dear Mr. Ratner:

You filed a notice of appeal on behalf of Western Watersheds Project, challenging District Ranger David Hogen's decision on sheep and goat livestock grazing allotments administered by the Medicine Wheel/ Paintrock Ranger District on one project area. This is one of five decisions discussed in the Final Environmental Impact Statement (FEIS) for Livestock Grazing and Vegetation Management, (known as the Big 6 decisions) and one of five decisions addressed in your appeal. District Ranger Hogen signed the Record of Decision (ROD) on July 26, 2011.

The appeal period ended November 3, 2011. You sent your appeal electronically with a number of emails and attachments beginning on November 3, 2011. The appeal itself was in the last file which did not arrive until 12:26 a.m. on November 4, 2011. Thus, your appeal was not timely filed. I am accepting your appeal this time because the early emails were timely, the appeal document was only 26 minutes late and there was no prejudice to our processing of the appeal. However, I admonish you that it is your obligation under the statute and regulation to ensure timely receipt by the Forest Service of your appeal and any late submissions in the future will not be accepted.

I have reviewed the appeal record, including your appeal, the ROD, and supporting documentation in the project record. I have weighed the recommendation from the Appeal Reviewing Officer and incorporated it into this decision. A copy of the Appeal Reviewing Officer's recommendation is enclosed. This letter constitutes my decision on your appeal including the specific relief requested.

### **Action Appealed**

District Ranger Hogen's decision was to select Alternative 3, continuation of permitted livestock grazing on eight allotments using adaptive management strategies.

You requested relief by asking the Forest Service to:

- Withdraw the decision, with any subsequent decision complying with CEQ NEPA regulations.



- Work with appellants to redesign the project to reduce impacts, create additional monitoring, and protect sensitive species and their habitats.
- Develop and fund additional monitoring requirements.
- Perform additional consultation with experts from the Rocky Mountain Research Station, Regional Office and other institutions in developing design criteria.

### **Appeal Reviewing Officer's Findings and Recommendation**

Appeal Reviewing Officer (ARO) Rhonda O'Byrne found that your appeal covered many different aspects of the analysis, including (but not limited to), sensitive species and wildlife viability, compliance with the Bighorn Forest Plan and the sensitive species policy, livestock grazing analysis, watershed conservation practices, use of best available science, forage use, range improvements, adaptive management, and compliance with the Clean Water Act. The ARO identified the appeal issues and assembled a team to respond to each of these. These points and responses are articulated in the attached letter from the ARO.

### **Decision**

As the Forest Supervisor on the Bighorn National Forest, I recognize how difficult it can be to make a decision that fully addresses the range of objectives in the Forest Plan. The mission of the Forest Service is to sustain the health, diversity, and productivity of the Nation's forests and grasslands to meet the needs of present and future generations. The needs of present and future generations are diverse and they include access to the economic development opportunities that forests and grasslands provide. Economic development is not necessarily incompatible with land and resource management; however, there are situations in which providing benefits to one area leads to costs in another. It is the role of the Line Officer to consider the costs and benefits to both people and the environment and to strike the best balance possible.

From the information provided in the project record, the FEIS and ROD, I find that the District Ranger reasonably decided that the risk of contact between domestic and bighorn sheep did not justify closing additional allotments to domestic sheep or requiring trucking at this time. However, those options remain adaptive strategies and I want to be clear that there are significant incentives for all parties to make this balance work for the permittees and the bighorn sheep. I agree with the Ranger that the risk of contact has been well evaluated and that the risk does not justify additional costs until all parties try to make the first level decision work. If the reasonable process that the Ranger has set forth does not prove successful, the decision requires him to move to the next level. The District Ranger's decisions are expressly laid out and the ARO reviewed and concurred with the logic offered in the record aimed at balancing the overall multiple use objectives. I want it to be clear that design criteria and adaptive strategies are actions adopted as part of the District Ranger's Record of Decision. The implementation of these actions are documented in AOIs and/or AMPs, as warranted, and as such become a part of the term grazing permit.

After reviewing the appeal record, I agree with ARO O'Byrne's analysis as presented in the recommendation letter. I find no violation of law, regulation, or policy. Therefore, I have decided to affirm in whole the Ranger's decision, denying your request for relief.

This decision constitutes the final administrative determination of the Department of Agriculture (36 CFR 215.18(c)).

Sincerely,

*/s/ William T. Bass*

WILLIAM T. BASS

Appeal Deciding Officer

Forest Supervisor

Enclosure

cc: Rhonda L OByrne

John Rupe

Dave Hogen